

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRUCE RAFFORD,

Plaintiff,

V.

MARK SELING *et al.*,

Defendants.

Case No. C04-5502FDB

ORDER ADOPTING REPORT AND RECOMMENDATION

The Magistrate Judge recommended that this cause of action be dismissed without prejudice as the issue of the timing of a civil commitment evaluation is res judicata, returning an issue of state law – when a sexually violent predator evaluation must take place – to state courts. Plaintiff moves for enlargement of time to respond, but then responds to the R&R arguing that Magistrate Judge Strombom’s ruling is premature and that there should be a consolidation of the other identical actions pending, that there is no proper motion to dismiss, and that Magistrate Judge Strombom is biased.

Plaintiff's arguments submitted with his motion for enlargement of time are without merit, they do not convince the Court that the Magistrate Judge erred, and the motion for enlargement of time will be denied.

The Court, having reviewed defendant's motion to dismiss, plaintiff's response, and defendant's reply, the complaint, the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

ORDER
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- (1) The Court adopts the Report and Recommendation;
 - (2) This action challenging the timing of an evaluation performed in connection with state civil commitment proceedings is barred by the doctrine of *res judicata* as the issue was dismissed by the Honorable Judge Robert J. Bryan in Ross v. Seling, C99-5238RJB. Judge Bryan's finding that litigation of this issue violates the Rooker-Feldman doctrine and the doctrine set forth in Heck v. Humphrey, 512 U.S. 477 (1994) was a final determination on the merits. Issue preclusion attaches to that decision.
 - (3) The action is **DISMISSED WITHOUT PREJUDICE**.
 - (4) The Clerk is directed to send copies of this Order to plaintiff, counsel defendants, and to the Hon. Karen L. Strombom.

DATED this 20th day of April 2005.


FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE